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IN THE
COURT OF APPEALS OF INDIANA

GARY ANDERSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0611-CR-633
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Heather Welch, Judge Pro Tem
Cause No. 49G01-0606-FB-106863

July 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Gary Anderson appeals his convictions and sentences after a jury trial for criminal confinement as a Class B felony[1] and battery as a Class C felony.[2] We affirm.

DISCUSSION AND DECISION

1. Sufficiency of the Evidence

Anderson argues the evidence was insufficient to support his convictions, as there was no evidence he confined the victim or that he used a deadly weapon. We disagree.

Michael Johnson testified Anderson hit him twice with a wooden stick and then pulled him into a wooded area, where Anderson hit him again numerous times. Tina Bush testified she saw Anderson hit Johnson numerous times and drag Johnson through the woods. A police officer described the stick as "a large 2 to 3 foot stick or pole or club." (Tr. at 91.)

From the evidence Johnson was dragged into the woods, the jury could infer he did not go willingly. A two-to-three-foot long club is "readily capable of causing serious bodily injury," Ind. Code § 35-41-1-8(a)(2); *see also Miller v. State*, 500 N.E.2d 193, 197 (Ind. 1986) (when different conclusions can be reached as to whether a weapon is deadly, it is a question of fact for the jury to determine from a description of the weapon, the manner of its use, and the circumstances of the case). This evidence is sufficient to support Anderson's convictions.

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[1] Ind. Code § 35-42-3-3(b)(2)(A).
[2] Ind. Code § 35-42-2-1(a)(2)(L)(3).

2. Sentence

Anderson was sentenced to fifteen years for criminal confinement and six years for battery, to be served concurrently. The trial court did not abuse its discretion in enhancing Anderson's sentence as Anderson had a lengthy criminal history.[3] Anderson's criminal history included a 1987 conviction of disorderly conduct; 1990 convictions of disorderly conduct and public intoxication as Class B misdemeanors and battery as a Class A misdemeanor; 1993 convictions of disorderly conduct as a Class B misdemeanor and possession of marijuana as a Class B felony; a 1996 conviction of criminal trespass as a Class A misdemeanor; a 1998 conviction of criminal conversion as a Class A misdemeanor; and a 2000 conviction of burglary as a Class B felony. His probation was revoked several times. A single valid aggravator is enough to sustain an enhanced sentence. *Buchanan v. State*, 699 N.E.2d 655, 657 (Ind. 1998).

Affirmed.

SHARPNACK, J., and BAILEY, J., concur.

[3] Anderson contends the trial court's determination he was in a position of trust with the victim violated *Blakely v. Washington*, 542 U.S. 296 (2004), *reh'g denied* 542 U.S. 961 (2004). We do not reach that question, as the trial court properly enhanced the sentence based on Anderson's criminal history.